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Universal periodic review

Report of the Working Group on the Universal Periodic Review*

Tajikistan

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

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Having considered the recommendations made by the States members of the United Nations Human Rights Council during the review of Tajikistan's national report under the Universal Periodic Review (second cycle), Tajikistan should like to note the following:

Recommendation number	*Position of Tajikistan*
118.1	Tajikistan does not accept this recommendation. This issue will be considered after Tajikistan's accession to the Convention on the Rights of Persons with Disabilities (CRPD).
118.2	Answered in 118.1.
118.3	Tajikistan does not accept this recommendation and will consider ratifying this document if it is desirable and possible to do so.
118.4	Answered in 118.3.
118.5	Given the financial repercussions and the need for amendments to both legislation and existing practice, Tajikistan does not accept this recommendation.
118.6	Tajikistan does not accept this recommendation and will consider ratifying this document if it is desirable and possible to do so. This issue requires further consideration, and a working group has been established to this end.
118.7	Tajikistan is party to nearly all core human rights treaties and intends to broaden its international obligations in the future. However, this is a gradual process and one that must take into account the real capabilities of the country. At present, Tajikistan considers it feasible to accede to CRPD and welcomes the technical support offered in fulfilling this recommendation. Tajikistan is not ready at this stage to accede to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).
118.8	Tajikistan accepts this recommendation only with regard to CRPD and the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP2). The question of acceding to other human rights documents requires further consideration.
118.9	Answered in 118.8.
118.10	Tajikistan accepts this recommendation and notes that domestic legislation on the protection of religious freedom has been drafted in accordance with international standards on the protection of human rights. Tajikistan is accustomed to discussing draft laws with United Nations bodies and the Organization for Security and Cooperation in Europe (OSCE), and welcomes cooperation with any interested parties in discussing and resolving this issue.

Recommendation number	*Position of Tajikistan*
118.11	Tajikistan accepts this recommendation and notes that it is undertaking measures to involve civil society more broadly in the process of promoting and protecting human rights. Henceforth, Tajikistan will take all measures to fulfil this recommendation and will consider the question of adopting a strategic human rights document.
118.12	Answered in 118.11.
118.13	Answered in 118.11.
118.14	Answered in 118.11.
118.15	Tajikistan extends invitations to Special Procedures in the prescribed manner. The authorities are not opposed to country visits by mandate holders. At present, Tajikistan enjoys fairly close cooperation with United Nations Special Procedures. This recommendation is not accepted at the present time.
118.16	Answered in 118.15.
118.17	Answered in 118.15.
118.18	Answered in 118.15.
118.19	Answered in 118.15.
118.20	Answered in 118.15.
118.21	Tajikistan does not accept this recommendation as it believes that its domestic legislation contains the relevant provisions.
118.22	Tajikistan accepts this recommendation and will work actively in this regard.
118.23	Tajikistan accepts this recommendation and will work actively in this regard.
118.24	Tajikistan accepts this recommendation. Domestic legislation prohibits discrimination based on religion. Tajikistan will henceforth work actively in this regard.
118.25	Tajikistan accepts this recommendation and will work actively in this regard.
118.26	Tajikistan does not accept this recommendation as it is not party to the Optional Protocol to the Convention against Torture (OP-CAT) and is not yet ready to ratify it. However, the country is taking all necessary measures to effectively combat torture and cruel treatment, particularly in places of detention. In order to ensure a functioning system of preventive visits, a permanent monitoring group has been established within the Office of the Ombudsman for Human Rights, comprising representatives of government bodies and non-governmental human rights organizations.

Recommendation number	*Position of Tajikistan*
118.27	Tajikistan accepts this recommendation and believes that it is being fulfilled. Tajikistan will henceforth work actively in this regard.
118.28	Tajikistan accepts this recommendation and is considering incorporating domestic violence into the Criminal Code as a specific crime.
118.29	Answered in 118.28.
118.30	Answered in 118.28.
118.31	Answered in 118.28.
118.32	Answered in 118.28.
118.33	Tajikistan accepts this recommendation and will henceforth continue its efforts in this regard.
118.34	Answered in 118.33.
118.35	Tajikistan accepts this recommendation and believes that its domestic legislation corresponds to international standards on the administration of justice. The trial of members of the Islamic Renaissance Party of Tajikistan (IRPT) was carried out in accordance with domestic legislation.
118.36	Answered in 118.35.
118.37	Tajikistan accepts this recommendation with regard to affording fundamental legal and procedural safeguards for detainees from the outset of their deprivation of liberty. Specific amendments and additions to domestic legislation have already been introduced in this regard. On the question of establishing an independent National Preventive Mechanism in accordance with the requirements of OP-CAT, please refer to recommendation 118.26.
118.38	Tajikistan accepts this recommendation and believes that its domestic legislation ensures and guarantees freedom of legal practice. Neither legislation nor practice contains any impediment that might restrict or prevent lawyers from meeting with their clients or might in any other way restrict lawyers' freedom to exercise their professional duties.
118.39	Tajikistan accepts this recommendation and believes that it has already been fulfilled. New legislation on legal practice provides for the principle of non-interference in lawyers' activities, and no government body has any administrative functions with regard to the legal community.
118.40	Tajikistan does not accept this recommendation on account of the imprecision of its content. Tajikistan has created the necessary conditions to ensure the independence of the legal profession.

Recommendation number	*Position of Tajikistan*
118.41	Tajikistan does not accept this recommendation and proposes that an International Committee of the Red Cross (ICRC) mission visits these establishments in order to conduct an independent inspection in accordance with Tajik legislation.
118.42	Tajikistan accepts this recommendation as it believes that it is already being fulfilled. The country continues to remain committed to fulfilling its obligations pertaining to freedom of expression, association, assembly and belief in accordance with international human rights standards.
118.43	Answered in 118.42.
118.44	Answered in 118.42.
118.45	Tajikistan accepts this recommendation as it believes that it is already being fulfilled. Freedom of religion is guaranteed to every person in Tajikistan and there are no restrictions on peaceful religious activity, either for individuals or for groups. Specific locations are designated where people can perform religious rites. Certain requirements exist with regard to receiving a religious education and disseminating religious literature. These measures are necessary to protect the rights of children and to prevent the incitement of religious hatred, and they have been developed in accordance with international human rights standards.
118.46	Answered in 118.45.
118.47	Answered in 118.45. With regard to the possibility of exercising the right to object to compulsory military service on the grounds of religion, Tajikistan does not accept this recommendation because it contravenes the Constitution.
118.48	Tajikistan does not accept this recommendation because it believes that the limitations provided for by domestic legislation are in accordance with international human rights standards.
118.49	Answered in 118.48.
118.50	Tajikistan accepts this recommendation and notes that access to Internet sites and social networks is freely available. The procedure for restricting the right of access is regulated by domestic legislation.
118.51	Tajikistan does not accept this recommendation. It has created the necessary conditions for development of an environment that ensures freedom of expression for journalists and the media, and it will henceforth continue its work in this regard.
118.52	Answered in 118.50.

Recommendation number	*Position of Tajikistan*
118.53	Tajikistan accepts this recommendation and believes that it is being fulfilled. The safety of all persons, including journalists, is guaranteed in Tajikistan.
118.54	Answered in 118.51.
118.55	Answered in 118.51.
118.56	Tajikistan does not accept this recommendation because the grounds and procedure for blocking Internet sites, as provided for by domestic legislation, are necessary and do not contravene international human rights documents.
118.57	Answered in 118.51.
118.58	Answered in 118.51.
118.59	Tajikistan accepts this recommendation. The relevant amendments and additions have already been incorporated into domestic legislation.
118.60	Tajikistan accepts this recommendation as defamation is decriminalized.
118.61	Tajikistan does not accept this recommendation as it believes that its legislation complies with international human rights standards, including the International Covenant on Civil and Political Rights (ICCPR).
118.62	Answered in 118.61.
118.63	Answered in 118.61.
118.64	Answered in 118.61.
118.65	Tajikistan accepts this recommendation and will henceforth work actively in this regard.
118.66	Answered in 118.61.
118.67	Tajikistan accepts this recommendation although it notes that the persons referred to in the recommendation are not being persecuted on political grounds. Every individual in Tajikistan is guaranteed judicial protection and the right to demand the review of his or her case by a competent, independent and impartial tribunal. No one may be subjected to detention or arrest without legitimate grounds.
118.68	Answered in 118.61.
118.69	Tajikistan does not accept this recommendation in connection with the fact that the persons referred to in the recommendation have not been convicted on political grounds.
118.70	Tajikistan accepts this recommendation and will henceforth create an environment for the free operation of peaceful political movements.

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Human Rights Council
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Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

United Republic of Tanzania

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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1. The Government of the United Republic of Tanzania has carefully reviewed the 227 recommendations made by member states during its Universal Periodic Review (UPR) in May 2016. During the review, the State accepted 130 recommendations, rejected 72, and deferred 25 for further consideration.

2. In compliance with paragraph 136 of the Draft Working Group Report, on the Universal Periodic Review for Tanzania, the Government of Tanzania undertook to examine the 25 deferred recommendations and to provide responses on or before the 33rd session of the Human Rights Council.

3. After a thorough consultative process with State and Non-State Actors from both sides of the Union and a review of the Recommendations in their totality, the State has ascertained its position on the deferred recommendations. The State has also reversed its decision on some rejected and accepted recommendations.

I. Deferred recommendations

No. of recommendation	*Response*
Access to information and freedom of Expression	
136.1. Ensure the full compliance of the Media Service Bill of 2015 with the right to freedom of expression as guaranteed under the ICCPR and that its provisions facilitate the work of independent and pluralistic media, including citizen journalists. (Czech Republic)	**Rejected.** The existing policy and legal framework do not accommodate the concepts of pluralistic media and citizen journalists. The media and citizens enjoy their right to freedom of expression as guaranteed by Article 18 of the Constitution of the United Republic of Tanzania, 1977 and the laws of the land. Further, the Access to Information Act, 2016 has just passed in the September 2016 Parliamentary Session and the Media Services Bill, 2016 has undergone a first reading in the September Parliamentary Session. Both instruments have considered freedom of expression in accordance with the Constitution which incorporates rights provided in international human rights instruments.

136.2. Adopt and implement, through an inclusive process, a revised Access to Information Act and Media Services Bill in line with international human rights law and standards. (Denmark)	**Rejected.** The recommendation is rejected on the basis that when the recommendation was issued the Access to Information Act was still in a Bill form. Further, it has just been passed into an Act in the September, 2016 Parliamentary Session. That being the case it cannot be revised. Further, the Media Services Bill, 2016 has just undergone a first reading during the September, 2016 Parliamentary Session. The stage it is at requires input through obtaining public opinions and we cannot guarantee any changes. Both the Access to Information Act, 2016 and the Media Services Bill, 2016 were created through a consultative and participatory process with stakeholders in accordance with the provisions of the Constitution of the United Republic of Tanzania, 1977.
136.4. Ensure compliance of legislation with its international human rights obligations, by inter alia reviewing the Cybercrime Act and the Statistics Act. (Germany)	**Rejected.** There are two Constitutional Petitions in the High Court challenging provisions of the Cybercrimes Act, 2015. In respect of the principle of separation of powers, the State is awaiting the decision of the Court which will determine the way forward. The State finds no need to review the Statistics Act, 2015 which was enacted in a participatory and consultative manner. The Act establishes the National Bureau of Statistics as the National statistics office responsible for the production, coordination, supervision and dissemination of official statistics and for the custodianship of official statistics in the Country. The Act is in line with the Constitution and human rights aspects contained therein.
136.5. Amend all laws infringing on press freedom, in particular the Statistics Act and the Cyber Crimes Act. (Belgium)	**Rejected.** The Recommendation is broad and calls for the amendment of all laws infringing press freedom. The State reiterate its position above on the Cyber Crimes Act, 2015 and the Statistics Act, 2015.
136.6. Amend the recently adopted Cybercrime legislation to make sure it does not infringe human rights and redraft the Access to Information Bill and the Media Service Bill of 2015 in line with international human rights law and highest human rights standards. (Sweden)	**Rejected.** The State can not commit to amending the Cybercrimes Act, 2015 for reasons as explained above. The status of the Access to Information Act, 2016 and the Media Services Bill, 2016 have been explained above.

136.7. Ensure that the legal framework and enforcement of laws, including the Cybercrimes Act and other laws affecting members of the media, are fully consistent with the human rights and fundamental freedoms in Tanzania's Constitution and the Universal Declaration of Human Rights. (United States of America)	**Rejected.** The Recommendation is rejected on the basis that the Cybercrimes Act of 2015 is being challenged in Court and the State is awaiting the decision of the Court.
136.8. Undertakes a thorough review with key stakeholders and civil society of its existing Cyber Crime and Statistic Acts and proposed Media Services and Access to Information bills, to meet human rights obligations. (United Kingdom of Great Britain and Northern Ireland)	**Rejected.** The Recommendation is rejected for reasons cited above.
136.24. Guarantee freedom of expression and association through amending the media laws (that is the Cybercrime Act, Statistics Act, both of 2015 and Newspaper Act of 1976) and to ensure a conducive environment for civil society organizations, human rights defenders and media to operate freely in accordance with the Constitution of the United Republic of Tanzania and the United Nations Declaration on Human Rights Defenders. (Netherlands)	**Rejected.** The Recommendation is rejected for being based on the presupposition that there is no conducive environment for civil society organisations, human rights defenders and the media to operate freely. The Government plays a facilitative role ensuring civil society organisation, human rights defenders and the media operate in accordance with the Constitution and the laws of the land such as; the Non-Government Organisation Act and the Societies Act. The status of the Cybercrimes Act, Access to Information Act, 2016 and the Media Services Bill, 2016 is explained above.
Right to health-abortion	
136.3. Implement the provisions in the African Union's Maputo protocol into its national legislation, including women's rights to medical abortion in cases of sexual assault, rape, incest and where the life of the mother or the foetus is in danger. (Norway)	**Rejected.** The Penal Code, Cap 16 provides for lawful abortion only when the life of the mother is in danger. Further, the recommendation is contrary to Article 14 of the Constitution which provides for the right to life.
Non-discrimination-age of marriage	
136.10. Set the minimum age to marriage and voting to 18 years for both genders without preference. (Haiti)	**Rejected.** Currently, there is a case at the Court of Appeal challenging the age of marriage in the Law of Marriage Act, 1971. The State is awaiting the Court of Appeal decision before addressing all matters and initiatives relating to the age of marriage. The State does not sanction forced marriages. The State wishes to clarify that the minimum age for voting is 18 years for both genders without preference as prescribed by Article 5 of the Constitution of the United Republic of Tanzania, 1977.

136.11. Review legislation with the view of establishing a minimum marriage age at 18 years for both boys and girls, under the Convention on the Rights of the Child. (Panama)	**Rejected as above.**
136.12. Amend the Law of Marriage Act of 1971 and increase the minimum marital age for girls, as well as prevent child, early and forced marriage. (Poland)	**Rejected as above.**
136.13. Consider adapting the Marriage Act of 1971 and set a minimum marriage age at 18 years for boys and girls according to international standards. (Austria)	**Rejected as above.**
136.16. Raise the age of marriage for girls to 18. (Sierra Leone)	**Rejected as above.**
136.17. Raise the minimum age for marriage to comply with international child rights standards, to prevent child, early and forced marriages. (Australia)	**Rejected as above.**
136.18. Set the minimum age of marriage at 18 for men and women alike and develop a national action plan to prevent and address the consequences of child marriage. (Slovenia)	**Rejected as above.**
136.19. Prevent child marriage by increasing minimum age restriction of marriage to 18 for girls so as to have the same age restriction for both genders. (Botswana)	**Rejected as above.**
136.20. Prevent and bring to justice those responsible for the practice of child early and forced marriage by amending the 1971 Law of Marriage Act to set the minimum age of marriage to 18, for both boys and girls without exception and make it consistent with the 2009 Law of the Child Act, which defines a child as anyone under 18. (Canada)	**Rejected as above.**

Rights of the child- Universal and free birth registration

136.14. Provide birth registration and issue birth certificates free of charge for all children under 5 years of age in order to reach universal coverage and increase public awareness of the importance of birth registration. (Poland)	**Accepted.** The State began the under 5 birth registration in 2013 with support from UNICEF. The program is being implemented in the Regions of Mbeya and Mwanza and will soon extend to the Region of Iringa with the objective of covering the whole country. The State shall continue to expand the program based on its resources and financial capacity.
136.15. Accelerate efforts regarding birth registration, while ensuring the free issuance of birth certificates to all children. (Turkey)	**Accepted as above.**

Rights of persons with albinism

136.9 Amend the 2002 Law on Alternative Medicine in order to prevent healers harming persons with albinism. (Spain)	**Rejected.** The State wishes to clarify that the Act was enacted to regulate Alternative Health Practitioners and Traditional Health Practitioners. The former are formally trained with skills in alternative medicine while the later are recognised by the community as competent persons to provide health care based on using plants, animal, mineral substances and the like. The Act does not sanction harming person with albinism by either Alternative or Traditional Health Practitioners and such incidences are the acts of the individual Healer breaking the law and not otherwise. The legislation itself and the Penal Code, Cap 16 provide penalties for unlawful acts by either Alternative or Traditional Health Practitioners. The issue of attacks and killings of persons with albinism is based on individual superstitious beliefs. The State is willing to review the Traditional and Alternative Medicines Act of 2002 in general and to assess its positive and negative aspects. The State can not commit that the review will lead to an amendment of the legislation as recommended.
136.22 Provide financial and structural support to civil society organisations to conduct awareness-raising campaigns against the discrimination of persons with albinism. (Haiti)	**Accepted in Part.** The State accepts to provide structural support to Civil Society Organisations as it has already established a normative framework by enacting legislation such as the Non Government Organisation Act, Cap 24 and the Societies Act, Cap 337 which establish various Civil Society Organisations. These legislation ensure that CSOs can seek funding to implement their activities and to operate within the provisions of the law.
136.23 Deepen cooperation with all stakeholders to fight discrimination and violence against persons with albinism, and in particular with the Independent Expert on the Enjoyment of Human Rights by Persons with Albinism, in full respect of the independence of her mandate. (Portugal)	**Accepted.** The State cooperates with all stakeholders to fight discrimination and violence against persons with albinism and the State is willing to receive the Independent Expert. However, her mandate has to be exercised in accordance with the laws of the land.

Corporal punishment

136.21 Prohibit all forms of corporal punishment. (Sweden)	**Rejected.** Corporal punishment is provided by the Corporal Punishment Act, Cap 17. It is a lawful punishment handed out by Courts of law for specific offences. It is not administered indiscriminately as it is only administered on men below 55 years of age and subject to guidelines ensuring no harm is caused to the offender. Further, a study by the Law Reform Commission revealed that the majority of citizens are in favour of corporal punishment. This form of punishment plays a significant deterrent role in the society.
Elections	
136.25. Play an active role to ensure inclusive and legitimate democracy in Zanzibar by supporting a reconciliation process in Zanzibar that leads to a truly representative Government of National Unity, as required by the Constitution of Zanzibar. (Netherlands)	**Rejected.** The Recommendation is based on the premise that there is no inclusive and legitimate democracy in Zanzibar. There is a legitimate Government in place as a result of free and fair elections where every political party was at liberty to contest. Parties which chose not to contest did so on their own prerogative.

II. Reversed positions on recommendations

Initially accepted	*Position*
134.14. Combat the phenomenon of early and forced marriage by amending the relevant legislation accordingly. (Cyprus)	**Rejected** pending outcome of the Court of Appeal decision.
134.61. Strengthen efforts to end child, early and forced marriages, especially among girls. (Maldives)	**Rejected** pending outcome of the Court of Appeal decision on the matter.
134.62. Accelerates moves to end child and forced marriage, revises the 1971Marriage Law Act, tightens legislation and enforcement to protect against Female Genital Mutilation, and in the process, collaborates with civil society organizations at community level. (UK and Northern Ireland)	The aspect of the Recommendation on the Law of Marriage Act, 1971 is **Rejected** pending outcome of the Court of Appeal decision. The State shall continue its efforts to tighten legislation and its enforcement to protect against Female Genital Mutilation, and shall collaborate with Civil Society Organisations to that end.
134.63. Adopt necessary measures to end the practice of forced and early marriages. (Argentina)	**Rejected** pending outcome of the Court of Appeal decision on the matter. The State does not sanction forced marriage.

134.56. Draw up and implement with external assistance, a comprehensive plan to address the problems faced by persons living with albinism, to include: massive public awareness campaign; free healthcare services, including preventive cancer treatment; protection mechanisms; investigation and prosecution of perpetrators of violence against them and reparation to victims of such attacks. (Sierra Leone)	**Accepted in Part.** The State has continued with its efforts to raise awareness on the rights of persons with albinism, to provide them with free healthcare services including preventive cancer treatment; to protect them through the community police initiative and to investigate, prosecute and trial cases where persons with albinism are victims. The issue of reparations will not be accepted at this stage as it is a matter which will have to be addressed comprehensively within the State before commitments can be made at the international level, including what type of reparations, conditions to be granted reparations, is it contested and who is responsible for ensuring reparations and the financial implications as a whole.
Initially rejected	
137.46. Widen the social welfare domain and make it available to its beneficiaries. (Egypt)	**Accepted.** It is within the Action Plan of the State to make its social welfare services available to its beneficiaries. The breadth of the extension of the social welfare domain shall be subject to the resources and financial capacity of the State.
137.69. Increase the measures taken to counter homelessness and the lack of adequate and affordable housing especially for vulnerable people such as those living in poverty and single mothers. (Malaysia)	**Accepted.** The Tanzania Social Action Fund (TASAF) seeks to enhance the livelihoods of single mothers in poverty stricken areas. Also, the social welfare system offers assistance to vulnerable people as defined in the United Republic of Tanzania as women, the elderly, children, persons with disabilities and people with HIV/AIDS. The State shall endeavor to implement the recommendation subject to its resources and financial capacity.
137.65. Strengthen efforts to protect the rights of people with albinism, and other vulnerable and minority groups.(Australia)	**Accepted.** The State shall continue to protect the rights of people with albinism as well as other vulnerable and minority groups. The recommendation is accepted based on the understanding that minority groups in the State refers to women, children, the elderly, people living with HIV/AIDS.